

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 176

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE HEALTH CARE PROFESSIONAL TRANSPARENCY ACT; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE HEALTH CARE PRACTITIONER TRANSPARENCY REQUIREMENTS AND TO PROVIDE FOR VIOLATIONS AND ENFORCEMENT; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 48, Idaho Code, and to read as follows:

CHAPTER 17

HEALTH CARE PROFESSIONAL TRANSPARENCY ACT

48-1701. SHORT TITLE. This chapter shall be known and may be cited as the "Health Care Professional Transparency Act."

48-1702. LEGISLATIVE INTENT. The Legislature of the State of Idaho hereby finds and declares that:

(1) There are a multitude of professional degrees using the term "doctor," including doctor of medicine (M.D.); doctor of osteopathic medicine (D.O.); doctor of dental surgery (D.D.S.); doctor of podiatric medicine (D.P.M.); doctor of optometry (O.D.); doctor of chiropractic (D.C.); naturopathic physician (N.P.); doctor of nursing practice (D.N.P.) and other designations that may be used by health care practitioners.

(2) There are widespread differences in the training and qualifications required to earn the professional degrees that allow someone to become a health care practitioner. These differences often concern the training and skills necessary to correctly detect, diagnose, prevent and treat serious health care conditions.

(3) There is a compelling state interest in promptly and clearly informing patients of the training and qualifications of the health care practitioners who provide health care services.

(4) There is a compelling state interest in protecting the public from potentially misleading and deceptive health care advertising that might cause patients to have inaccurate and inappropriate expectations regarding their treatment.

48-1703. DEFINITIONS. For the purposes of this chapter:

(1) "Advertisement" means any printed or electronic communication or statement that names a health care practitioner in relation to his or her practice, profession or institution in which the individual provides health

1 care services. "Advertisement" includes business cards, letterhead, pa-  
 2 tient brochures, e-mail, internet, audio and video, billboards, signage,  
 3 outdoor advertising and any other communication or statement used in the  
 4 course of business.

5 (2) "Deceptive" or "misleading" means any advertisement or affirma-  
 6 tive communication or representation that misstates, falsely describes or  
 7 falsely details the health care practitioner's profession, education, board  
 8 certification or licensure or constitutes an offer to provide health care  
 9 services outside of the practitioner's licensed scope of practice.

10 (3) "Health care practitioner" means any physician or other person li-  
 11 censed or otherwise authorized by statute to furnish health care services.

12 48-1704. HEALTH CARE PRACTITIONER TRANSPARENCY REQUIREMENTS -- EX-  
 13 CEPTION. (1) An advertisement for health care services that names a health  
 14 care practitioner must identify the type of license held by the prac-  
 15 titioner. The advertisement shall not contain deceptive or misleading  
 16 information.

17 (2) A health care practitioner providing health care services in this  
 18 state shall:

19 (a) If the health care practitioner wears an identification badge,  
 20 the identification badge shall include the practitioner's name and  
 21 the type of license, e.g., "medical doctor," "psychologist," "nurse  
 22 practitioner," "podiatrist," that the practitioner holds. The identi-  
 23 fication badge shall be of sufficient size and be worn in a conspicuous  
 24 manner so as to be visible and apparent; and

25 (b) The health care practitioner shall display in his or her office a  
 26 writing that clearly identifies the type of license held by the health  
 27 care practitioner. The writing must be of sufficient size so as to be  
 28 visible and apparent to all current and prospective patients.

29 (3) A health care practitioner who practices in more than one office  
 30 shall be required to comply with these requirements in each practice set-  
 31 ting.

32 (4) Health care practitioners working in nonpatient care settings, and  
 33 who do not have direct patient care interactions, are not subject to the pro-  
 34 visions of subsection (2) of this section.

35 48-1705. VIOLATIONS AND ENFORCEMENT. (1) Failure to comply with any  
 36 provision of section 48-1704, Idaho Code, shall constitute a violation of  
 37 this chapter.

38 (2) Any health care practitioner who violates any provision of this  
 39 chapter as determined by the licensing board governing the practitioner's  
 40 license is guilty of unprofessional conduct and subject to disciplinary  
 41 action under the appropriate licensure provisions governing the respective  
 42 health care practitioner.

43 (3) Notwithstanding the imposition of any penalty, a professional li-  
 44 censing board or other administrative agency with jurisdiction may seek an  
 45 injunction or other legal means as appropriate against a person or entity vi-  
 46 olating this chapter.

47 SECTION 2. This act shall be in full force and effect on and after Jan-  
 48 uary 1, 2012.